

1-1 By: Carona S.B. No. 893  
1-2 (In the Senate - Filed February 27, 2013; March 5, 2013,  
1-3 read first time and referred to Committee on Criminal Justice;  
1-4 April 11, 2013, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 11, 2013,  
1-6 sent to printer.)

1-7	COMMITTEE VOTE				
1-8		Yea	Nay	Absent	PNV
1-9	Whitmire	X			
1-10	Huffman	X			
1-11	Carona			X	
1-12	Hinojosa	X			
1-13	Patrick			X	
1-14	Rodriguez	X			
1-15	Schwertner	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 893 By: Huffman

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to certain conditions of, penalties for violating, and  
1-20 collection of information about protective orders issued in certain  
1-21 family violence, sexual assault or abuse, stalking, or trafficking  
1-22 cases.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. The heading to Chapter 7A, Code of Criminal  
1-25 Procedure, is amended to read as follows:

1-26 CHAPTER 7A. PROTECTIVE ORDER FOR [~~CERTAIN~~] VICTIMS OF [~~TRAFFICKING~~  
1-27 ~~OR~~] SEXUAL ASSAULT OR ABUSE, STALKING, OR TRAFFICKING

1-28 SECTION 2. Subsection (a), Article 7A.05, Code of Criminal  
1-29 Procedure, is amended to read as follows:

1-30 (a) In a protective order issued under this chapter, the  
1-31 court may:

1-32 (1) order the alleged offender to take action as  
1-33 specified by the court that the court determines is necessary or  
1-34 appropriate to prevent or reduce the likelihood of future harm to  
1-35 the applicant or a member of the applicant's family or household; or

1-36 (2) prohibit the alleged offender from:

1-37 (A) communicating:

1-38 (i) directly or indirectly with the  
1-39 applicant or any member of the applicant's family or household in a  
1-40 threatening or harassing manner; or

1-41 (ii) in any manner with the applicant or any  
1-42 member of the applicant's family or household except through the  
1-43 applicant's attorney or a person appointed by the court, if the  
1-44 court finds good cause for the prohibition;

1-45 (B) going to or near the residence, place of  
1-46 employment or business, or child-care facility or school of the  
1-47 applicant or any member of the applicant's family or household;

1-48 (C) engaging in conduct directed specifically  
1-49 toward the applicant or any member of the applicant's family or  
1-50 household, including following the person, that is reasonably  
1-51 likely to harass, annoy, alarm, abuse, torment, or embarrass the  
1-52 person; and

1-53 (D) possessing a firearm, unless the alleged  
1-54 offender is a peace officer, as defined by Section 1.07, Penal Code,  
1-55 actively engaged in employment as a sworn, full-time paid employee  
1-56 of a state agency or political subdivision.

1-57 SECTION 3. Subsections (b) and (g), Section 411.042,  
1-58 Government Code, are amended to read as follows:

1-59 (b) The bureau of identification and records shall:

1-60 (1) procure and file for record photographs, pictures,

2-1 descriptions, fingerprints, measurements, and other pertinent  
 2-2 information of all persons arrested for or charged with a criminal  
 2-3 offense or convicted of a criminal offense, regardless of whether  
 2-4 the conviction is probated;

2-5 (2) collect information concerning the number and  
 2-6 nature of offenses reported or known to have been committed in the  
 2-7 state and the legal steps taken in connection with the offenses, and  
 2-8 other information useful in the study of crime and the  
 2-9 administration of justice, including information that enables the  
 2-10 bureau to create a statistical breakdown of:

2-11 (A) offenses in which family violence was  
 2-12 involved;

2-13 (B) offenses under Sections 22.011 and 22.021,  
 2-14 Penal Code; and

2-15 (C) offenses under Sections 20A.02 and 43.05,  
 2-16 Penal Code;

2-17 (3) make ballistic tests of bullets and firearms and  
 2-18 chemical analyses of bloodstains, cloth, materials, and other  
 2-19 substances for law enforcement officers of the state;

2-20 (4) cooperate with identification and crime records  
 2-21 bureaus in other states and the United States Department of  
 2-22 Justice;

2-23 (5) maintain a list of all previous background checks  
 2-24 for applicants for any position regulated under Chapter 1702,  
 2-25 Occupations Code, who have undergone a criminal history background  
 2-26 check under Section 411.119, if the check indicates a Class B  
 2-27 misdemeanor or equivalent offense or a greater offense;

2-28 (6) collect information concerning the number and  
 2-29 nature of protective orders and all other pertinent information  
 2-30 about all persons on active protective orders, including pertinent  
 2-31 information about persons subject to conditions of bond imposed for  
 2-32 the protection of the victim in any family violence, sexual assault  
 2-33 or abuse, or stalking case. Information in the law enforcement  
 2-34 information system relating to an active protective order shall  
 2-35 include:

2-36 (A) the name, sex, race, date of birth, personal  
 2-37 descriptors, address, and county of residence of the person to whom  
 2-38 the order is directed;

2-39 (B) any known identifying number of the person to  
 2-40 whom the order is directed, including the person's social security  
 2-41 number or driver's license number;

2-42 (C) the name and county of residence of the  
 2-43 person protected by the order;

2-44 (D) the residence address and place of employment  
 2-45 or business of the person protected by the order, unless that  
 2-46 information is excluded from the order under Section 85.007, Family  
 2-47 Code;

2-48 (E) the child-care facility or school where a  
 2-49 child protected by the order normally resides or which the child  
 2-50 normally attends, unless that information is excluded from the  
 2-51 order under Section 85.007, Family Code;

2-52 (F) the relationship or former relationship  
 2-53 between the person who is protected by the order and the person to  
 2-54 whom the order is directed; ~~and~~

2-55 (G) the conditions of bond imposed on the person  
 2-56 to whom the order is directed, if any, for the protection of a  
 2-57 victim in any family violence, sexual assault or abuse, or stalking  
 2-58 case; and

2-59 (H) the date the order expires;

2-60 (7) grant access to criminal history record  
 2-61 information in the manner authorized under Subchapter F;

2-62 (8) collect and disseminate information regarding  
 2-63 offenders with mental impairments in compliance with Chapter 614,  
 2-64 Health and Safety Code; and

2-65 (9) record data and maintain a state database for a  
 2-66 computerized criminal history record system and computerized  
 2-67 juvenile justice information system that serves:

2-68 (A) as the record creation point for criminal  
 2-69 history record information and juvenile justice information

maintained by the state; and

(B) as the control terminal for the entry of records, in accordance with federal law and regulations, federal executive orders, and federal policy, into the federal database maintained by the Federal Bureau of Investigation.

(g) The department may adopt reasonable rules under this section relating to:

(1) law enforcement information systems maintained by the department;

(2) the collection, maintenance, and correction of records;

(3) reports of criminal history information submitted to the department;

(4) active protective orders ~~[issued under Title 4, Family Code,]~~ and reporting procedures that ensure that information relating to the issuance and dismissal of an active protective order ~~[and to the dismissal of an active protective order]~~ is reported to the local law enforcement agency at the time of the order's issuance or dismissal and entered by the local law enforcement agency in the state's law enforcement information system;

(5) the collection of information described by Subsection (h); ~~and~~

(6) a system for providing criminal history record information through the criminal history clearinghouse under Section 411.0845; and

(7) active conditions of bond imposed on a defendant for the protection of a victim in any family violence, sexual assault or abuse, or stalking case, and reporting procedures that ensure that information relating to the issuance, modification, or removal of the conditions of bond is reported to the local law enforcement agency at the time of the issuance, modification, or removal and entered by the local law enforcement agency in the state's law enforcement information system.

SECTION 4. The heading to Section 25.07, Penal Code, is amended to read as follows:

Sec. 25.07. VIOLATION OF CERTAIN COURT ORDERS OR CONDITIONS OF BOND IN A FAMILY VIOLENCE, SEXUAL ASSAULT OR ABUSE, OR STALKING CASE.

SECTION 5. Subsection (a), Section 25.07, Penal Code, is amended to read as follows:

(a) A person commits an offense if, in violation of a condition of bond set in a family violence, sexual assault or abuse, or stalking case and related to the safety of a ~~[the]~~ victim or the safety of the community, an order issued under Article 17.292, Code of Criminal Procedure, an order issued under Section 6.504, Family Code, Chapter 83, Family Code, if the temporary ex parte order has been served on the person, or Chapter 85, Family Code, or an order issued by another jurisdiction as provided by Chapter 88, Family Code, the person knowingly or intentionally:

(1) commits family violence or an act in furtherance of an offense under Section 22.011, 22.021, or 42.072;

(2) communicates:

(A) directly with a protected individual or a member of the family or household in a threatening or harassing manner;

(B) a threat through any person to a protected individual or a member of the family or household; or

(C) in any manner with the protected individual or a member of the family or household except through the person's attorney or a person appointed by the court, if the violation is of an order described by this subsection and the order prohibits any communication with a protected individual or a member of the family or household;

(3) goes to or near any of the following places as specifically described in the order or condition of bond:

(A) the residence or place of employment or business of a protected individual or a member of the family or household; or

(B) any child care facility, residence, or school where a child protected by the order or condition of bond normally resides or attends;

(4) possesses a firearm; or

(5) harms, threatens, or interferes with the care, custody, or control of a pet, companion animal, or assistance animal that is possessed by a person protected by the order.

SECTION 6. Subsection (b), Section 25.07, Penal Code, is amended by adding Subdivisions (4), (5), and (6) to read as follows:

(4) "Sexual abuse" means any act as described by Section 21.02 or 21.11.

(5) "Sexual assault" means any act as described by Section 22.011 or 22.021.

(6) "Stalking" means any conduct that constitutes an offense under Section 42.072.

SECTION 7. The heading to Section 38.112, Penal Code, is amended to read as follows:

Sec. 38.112. VIOLATION OF PROTECTIVE ORDER ISSUED ON BASIS OF SEXUAL ASSAULT OR ABUSE, STALKING, OR TRAFFICKING.

SECTION 8. Subsection (a), Section 38.112, Penal Code, is amended to read as follows:

(a) A person commits an offense if, in violation of an order issued under Chapter 7A, Code of Criminal Procedure, the person knowingly:

(1) communicates:

(A) directly or indirectly with the applicant or any member of the applicant's family or household in a threatening or harassing manner; or

(B) in any manner with the applicant or any member of the applicant's family or household except through the applicant's attorney or a person appointed by the court;

(2) goes to or near the residence, place of employment or business, or child-care facility or school of the applicant or any member of the applicant's family or household; or

(3) possesses a firearm.

SECTION 9. The changes in law made by this Act in amending Sections 25.07 and 38.112, Penal Code, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 10. This Act takes effect September 1, 2013.

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